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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/078,068	02/19/2002	Patricia Lewis	MOR3334P0870US	6339

7590 04/20/2004

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EXAMINER

PATTERSON, MARIE D

ART UNIT PAPER NUMBER

3728

DATE MAILED: 04/20/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/078,068

Applicant(s)

LEWIS ET AL.

Examiner

Marie Patterson

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 12 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saraceni (3268767) in view of Rosseau (4599811).

Saraceni shows a boot comprising a foot and ankle portion made from one piece of foldable material (figure 17, elements 21 L and R), and a fastener for holding a folded toe portion (31, 33, and 51) substantially as claimed except for the exact fastener.

Rosseau teaches the use of hook and loop fasteners (6-8, 12, and 13) and a strap (11) as fastening means in a boot with foldable toe portion. It would have been obvious to use hook and loop fastening means as taught by Rosseau in the boot of Saraceni '767 to make the fastening means easy and quick to use, secure, and more durable.

3. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 12 and 14-18 above, and further in view of either Lahnstein (2603889), Ludwig (2391720), or Simister (3744163).

Saraceni '767 as modified above shows a boot substantially as claimed except for a wear resistant sole. Lahnstein, Ludwig, or Simister teaches providing a wear resistant sole (5, 5, or 12) on the bottom of a fabric foldable boot. It would have been obvious to provide a wear resistant sole as taught by either Lahnstein, Ludwig, or Simister in the

boot of Saraceni '767 as modified above to increase the durability and to reduce slipping.

4. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 12 and 14-18 above, and further in view of Sinclair (4458431) and Boggs (4788780) or Cockrell (2630636).

Saraceni '767 as modified above shows a boot substantially as claimed except for straps which are fastened to itself and providing the straps on the foot and ankle portion. Sinclair teaches providing straps which are both fastened to the boot and itself. Boggs or Cockrell teaches providing two straps, one on the ankle portion (55 and 24) and one on the foot portion (53 or 25). It would have been obvious to provide two straps as taught by either Boggs or Cockrell and to use a multi-fastenable strap as taught by Sinclair in the boot of Saraceni '767 as modified above to provide a more secure fastening means and to provide greater adjustability.

Response to Arguments

5. Applicant's arguments with respect to claims 12-21 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3728

1. Telephone inquiries regarding the status of application or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the Examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the **Tech Center 3700 Customer Service Center number is (703) 306-5648**. For applicant's convenience, the Group Technological Center FAX number is (703) 872-9306. (Note that the Examiner **cannot** confirm receipt of faxes) Please identify Examiner ____ of Art Unit ____ at the top of your cover sheet of any correspondence submitted.

Inquiries only concerning the **merits** of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g. copies of references cited, form PTO-1449, for PTO-892, etc. requests for copies of such papers should be directed to (703) 308-1337.

Check out our web-site at "www.uspto.gov" for fees and other useful information.



Marie Patterson
Primary Examiner
Art Unit 3728